

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI  
TE WHANGANUI-Ā-TARA ROHE**

[2025] NZERA 462  
3395004

BETWEEN            MINISTRY OF EDUCATION  
Applicant

AND                    NEW ZEALAND PUBLIC SERVICE  
ASSOCIATION  
Respondent

Member of Authority:     Antoinette Baker

Representatives:         Susan Hornsby-Geluk, counsel for the Applicant  
Caroline Mayston, counsel for the Respondent

Investigation meeting:    On the papers

Application and  
information provided:     30 July 2025

Date:                      31 July 2025

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**DETERMINATION OF THE AUTHORITY**

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[1]     The applicant, the Ministry of Education (MOE) and the respondent, the New Zealand Public Service Association (PSA) are parties to a collective employment agreement that has a term from 1 March 2023 to 17 January 2025 (the Collective Agreement). The PSA initiated bargaining on 28 November 2024 towards a new collective agreement, the parties have not been able to reach agreement. The collective agreement has continued to remain in force under s 53 of the Employment Relations Act 2000 (the Act).

[2]     On 30 July 2025, MOE applied for a reference to facilitation under s 50B of the Act. While not lodged as a joint application, attached communications suggested the PSA did not

oppose the application. I sought further confirmation, and the PSA confirmed that it does not oppose the application nor the single ground it is made on, and further that it does not oppose the application for urgency. I note that in its response, the PSA disagrees with ‘some facts’ described by the MOE in its application however I do not consider these to be things that I have to comment on or determine for this application.

### **The Authority’s investigation**

[3] By agreement, this matter has been considered on the papers based on the Statement of Problem, an affidavit from the MOE, and the response to this material in an email by the PSA which included it did not oppose the application and the ground on which it was put forward.

### **Analysis of application**

[4] Under s 50(C)(1) of the Act I must not accept a reference for facilitation unless I am satisfied that one or more of the grounds in s 50C(1) of the Act exist.

[5] The parties agree that the ground in s 50C(1)(b) of the Act applies which is that:

- (i) the bargaining has been unduly protracted; and
- (ii) extensive efforts (including mediation) have failed to resolve the difficulties that have precluded the parties from entering into a collective agreement.

[6] Before me is the following summary of bargaining:

- (a) Bargaining was initiated by the PSA by notice on 28 November 2024;
- (b) A bargaining process agreement was not agreed to.
- (c) Twelve days of bargaining occurred from 22 January 2025 onwards.
- (d) Two ‘renumeration workshops’ were held ‘to seek to address renumeration issues relating to bargaining.’
- (e) On record, and without prejudice discussions were held.
- (f) An offer was made by the MOE on 17 March 2025. Matters did not settle.
- (g) Notified strike action occurred on 21 May 2025 from 3.30pm to 4.30pm.

- (h) Mediation provided by MBIE<sup>1</sup> occurred on 30 May 2025.
- (i) A second 'formal' offer to settle by MOE was made on 26 June 2025. Matters did not settle.
- (j) Notified strike action occurred on 22 July 2025 from 10.00am to 12.00 noon.

[7] As to the substantive issues in bargaining, and without detailing all that I have before me, there appears to remain an impasse between the parties particularly regarding remuneration. Other matters outstanding are described as relating to flexible working arrangements and change management protocols.

[8] Based on the information before me, I am satisfied that the bargaining has become unduly protracted. It has been 7 months since bargaining was initiated. The matter is in the context of unresolved matters relating to remuneration for what is a significantly large workforce covered by the Collective Agreement. Based on the above history of bargaining I am satisfied that there have been extensive efforts and all of this has failed to resolve the difficulties that have prevented the parties from renewing the Collective Agreement.

[9] I am satisfied that the ground under s 50C(1)(b) of the Act is made out.

[10] I grant the application for a reference to facilitation. As provided under s 50D of the Act, another Member will provide facilitation of the collective bargaining.

[11] As this is an application for facilitation, there is no order for costs.

Antoinette Baker  
Member of the Employment Relations Authority

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<sup>1</sup> Ministry of Business Innovation and Employment.